



State of New Jersey

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The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY  
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 13138-19 D.B.

AGENCY DKT. NO. S496425012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA ineligibility penalty, contending that he violated motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On September 24, 2019, the Honorable Jeffrey N. Rabin, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On September 26, 2019, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and MODIFY the Agency's determination, as discussed below.

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, "threatening and/or disruptive behavior that affects the operations of the shelter or the safety of other residents," or a violation of the shelter's health and safety policies. See N.J.A.C. 10:90-6.3(c)(3), -6.3(c)(5). However, N.J.A.C. 10:90-6.3(e) provides that an EA benefits recipient shall be eligible for continued EA benefits for other, less severe, minor violations of a facility's policies, such as visitation or curfew. See also DFD Instruction 08-5-4 at 10. An adult EA recipient who incurs two or more terminations for such less severe violations is subject to the loss of EA benefits for a period of six months. See N.J.A.C. 10:90-6.3(e)(1).

Here, the record reflects that on January 30, March 19, and May 9, 2019, Petitioner executed EA service plans ("SPs"), wherein he agreed, among other things, to abide by motel rules, remain respectful to motel staff and guests, and to not possess drugs or alcohol on the premises. See Initial Decision at 3; see also Exhibit R-1 at B, C, E. However, Petitioner violated motel rules by having loud arguments with guests, smoking in his non-smoking room, and being in possession of drugs in his room, which resulted in police involvement. See Initial Decision at 4; see also Exhibits R-1 at H, I, J, K, and R-2. Consequently,



the Agency terminated Petitioner's EA benefits, effective July 12, 2019, and imposed a six-month EA ineligibility penalty, noting that Petitioner had two or more prior terminations from housing, and was currently incarcerated. See Initial Decision at 2; see also Exhibit R-1 at L, and N.J.A.C. 10:90-6.1(c), -6.3(e). Based on the foregoing, the ALJ found that Petitioner had incurred two or more housing terminations, and had violated his SP by smoking and being in possession of drugs. See Initial Decision at 4; see also N.J.A.C. 10:90-6.3(e), -6.6(a). Accordingly, the ALJ concluded that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Initial Decision at 4; see also Exhibit R-1 at L, and N.J.A.C. 10:90-6.1(c)(3)(vi), -6.3(e), -6.6(a).

I agree with the ALJ's finding that Petitioner failed to abide by shelter rules in this instance. See Initial Decision at 4. However, in instances such as this, where a violation of shelter/motel rules are at issue, it is the type of violation which is controlling, not the SP, as stated by the ALJ, nor the causing of one's own homelessness, as set forth at N.J.A.C. 10:90-6.1(c), as cited by the Agency. *Ibid.*; see also N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this instance, the record indicates that Petitioner was terminated from two housing placements due to threatening/disruptive behavior and violations of health and safety policies, and on those bases, I find that Petitioner has violated shelter rules, and is ineligible for EA benefits for a period of six months in accordance with both N.J.A.C. 10:90-6.3(c)(3), (5), -6.3(e). See Initial Decision at 3-4; see also Exhibit R-1 at L. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA ineligibility penalty, were proper and must stand. See Exhibit R-1 at L. The Initial Decision, as well as, the Agency's determination, are modified to reflect these findings with respect to the applicable regulatory authority in this case.

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from July 12, 2019, the effective date of the Agency's termination notice, through January 11, 2020. See Exhibit R-1 at L.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's determination is MODIFIED, as outlined above.

Officially approved final version.

OCT - 3 2019

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Natasha Johnson  
Assistant Commissioner

